

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

STATE OF MISSOURI, ex rel.)
MISSOURI HIGHWAYS AND)
TRANSPORTATION COMMISSION)
)
 Plaintiff,)
) Cause No: 4:09cv00272 ERW
vs.)
)
 EAGLE POINT SOFTWARE)
 CORPORATION)
)
 Defendant.)

JOINT PROPOSED SCHEDULING ORDER

COME NOW Plaintiff and Defendant, by and through their undersigned counsel, pursuant to Fed. R. Civ. P. 26, and consent to the following scheduling order:

1. The parties propose that they shall provide each opposing party with the information required by Fed. R. Civ. P. 26(a)(1) by April 9, 2009.
2. The parties propose that joinder of additional parties or amendment of pleadings shall take place by June 30, 2009, with the exception of any motion to amend to set forth any affirmative defense which might become known to defendant prior to the close of discovery. This date has been proposed because it will allow the parties sufficient time to engage in preliminary discovery necessary to determine whether the addition of other parties is appropriate.
3. The parties have agreed and recommend to the Court the following discovery plan:

- a. The parties agree that discovery need not be conducted in phases or limited to certain issues, other than as set forth herein.
- b. At present, the parties agree that the limit of ten (10) depositions per party and (25) interrogatories per party should apply in this case. If the need for supplemental interrogatories should arise due to the material produced in the first round of discovery, additional discovery may be had by leave of Court or agreement of the parties.
- c. The parties agree that simultaneous disclosures are not appropriate in this case:
 - i. Plaintiff will disclose all of its expert witnesses by October 15, 2009, and Plaintiff shall make said expert witnesses available for deposition on or before November 16, 2009.
 - ii. Defendants will disclose their expert witnesses by December 15, 2009, and the Defendant shall make said expert witnesses available for deposition on or before January 20, 2010.
The term "disclose," as used in this paragraph, includes the production of the report required by Rule 26(a)(2) of the Federal Rules of Civil Procedure.
- d. The parties do not believe there are any other matters pertinent to the completion of discovery in this case.
- e. The parties agree that all written discovery and depositions be completed by February 1, 2010. This date has been proposed due to the anticipated number of witnesses, and the calendars of counsel.

4. The parties are amenable to mediation of this action. The parties agree that mediation shall be conducted prior to November 16, 2009.

5. The parties agree that any discovery/dispositive motions be filed on or before March 3, 2010, that any responsive memorandum be filed on or before April 3, 2010, and any reply memorandum be filed on or before April 10, 2010.

6. The parties propose it would be appropriate to set this case for trial on or after May, 2010.

7. The parties estimate the length of time expected to try this case to verdict to be five (5) days.

8. At this time, the parties do not deem any other matters appropriate for inclusion in the Joint Proposed Scheduling Plan.

WHEREFORE, the parties pray for the entry of a Scheduling Order in accordance with the above proposed dates.

Jointly submitted by:

BATY, HOLM & NUMRICH, P.C.

BROWN & JAMES, P.C.

By: /s/ Julie M. Numrich
Theresa A. Otto, Esq. (#43453)
Julie M. Numrich, Esq. (#53906)
BATY, HOLM & NUMRICH, P.C.
4600 Madison Avenue, Suite 210
Kansas City, MO 64112-3012
totto@batyholm.com
jnumrich@batyholm.com
Telephone: 816-531-7200
Telecopy: 816-531-7201

ATTORNEYS FOR PLAINTIFF

By: /s/ Sean P. Hadican
Russell F. Watters, #4653
Sean P. Hadican, #504809
BROWN & JAMES, P.C.
1010 Market Street, 20th Floor
St. Louis, MO 63101-2000
rwtters@bjpc.com
shadican@bjpc.com
Telephone: 314-421-3400
Facsimile: 314-421-2128

ATTORNEYS FOR DEFENDANT